IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13098 of 2004

Between:

M/s. Shiva Shankar Binny Rice Mill, Gungal Village, Yacharam Mandal, Ranga Reddy District, rep by its Managing Partner Mr. A. Ravinder, S/o. Sri Dhananjaya, aged 35 years.

...PETITIONER

AND

1. The Chief General Manager (Operations), APCPDCL, Singareni Bhavan, Hyderabad.
2. The Superintending Engineer Assessments, APHB Buildings, Urdu Hall Lane, Himayathnagar, Hyderabad.
3. The Assistant Divisional Engineer (Operations), APCPDCL, Ibrahimpatnam, R.R. District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction or particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in issuing the impugned final assessment orders in proceedings No. SEA/HYD/F.No.RS-659/SAH No.9583/D.No.173 dated 22.01.2004 without giving opportunity and without application of mind, the action of the 1st respondent in not disposing the appeal filed by the petitioner and further action of the 3rd respondent in disconnecting the power supply to the petitioners rice mill on 09-07-2004, as illegal, highly unwarranted, violative of Article, 14,19,21 and 300A of Constitution of India and consequently set aside the above stated impugned orders of the 2nd respondent.

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court at the admission stage made the following:

ORDER:

The petitioner is availing power supply with Service Connection bearing SC.No.454, LT Cat-III. The petitioner premises was inspected by the Assistant Divisional Engineer, the third respondent herein on 25.07.1998, when it was found that the petitioner was allegedly indulging in pilferage of energy. Therefore, the third respondent provisionally assessed the value of pilfered energy at Rs.9,77,373/- (Rupees nine lakh seventy seven thousand three hundred and seventy three only), disconnected the power supply and advised the petitioner to pay an amount of Rs.4,88,686/- (Rupees four lakh eighty eight thousand six hundred and eighty six only) towards 50% of the initial assessment, if he wants to avail the power supply. The petitioner submits that he paid Rs.2,44,350/- (Rupees two lakh forty four thousand three hundred and fifty only) and availed power supply. The petitioner's firm also submitted explanation. After considering the explanation, the second respondent passed final assessment order dated 22.01.2004 and reduced the value of pilfered energy to Rs.6,77,340/- (Rupees six lakh seventy seven thousand three hundred and forty only). Aggrieved by the same, the petitioner preferred an appeal before the first respondent on 26.05.2004. The same is still pending. Nonetheless, the petitioner approached this Court by filing the Writ Petition, as the power supply was disconnected on 09.07.2004.

There is no denial that the appeal is still pending. There is also no denial that as per condition No.39.10.1 of Andhra Pradesh State Electricity Board Terms and Conditions of Supply (for short 'the Terms and Conditions'), it is competent to the appellate authority to restore power supply to the consumer on paying 50% of the amount demanded in the final assessment order. Therefore, nothing prevents the petitioner to move the appellate authority under condition No.39.10.1 of the Terms and Conditions.

Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to approach the appellate authority for restoration of power supply. Further, the appellate authority is directed to pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order.

(V.V.S.RAO, J)

27th July 2004

Note: CC by 02.08.2004

B/o

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copies to:

1. The Chief General Manager (Operations), APCPDCL, Singareni Bhavan, Hyderabad.
2. The Superintending Engineer Assessments, APHB Buildings, Urdu Hall Lane, Himayathnagar, Hyderabad.
3. The Assistant Divisional Engineer (Operations), APCPDCL, Ibrahimpatnam, R.R. District.
4. Two CD copies.